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BEFORE THE

## ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

) No. T11-0097

CITY OF DANVILLE,

Petitioner,

VS .

NORFOLK SOUTHERN RAILWAY COMPANY  
and CSX TRANSPORTATION, INC., and  
the STATE OF ILLINOIS, DEPARTMENT  
OF TRANSPORTATION

Respondents.

Petition for an order regarding a separation of grades, removal of an existing viaduct and construction of a roadway overpass to carry FAU Route 7002 (Fairchild Street) over the Norfolk, Southern and CSX Transportation, Inc., railroads, City of Danville, Illinois, and apportioning cost thereof

Chicago, Illinois

February 21, 2012

Met, pursuant to notice, at

2 o'clock p.m.

BEFORE :

MR. JIM DUGGAN,  
Administrative Law Judge

1 APPEARANCES:

2 HINSHAW, CULBERTSON, LLP, by  
3 MR. EDWARD R. GOWER  
4 401 South 9th Street, Suite 200  
5 Springfield, Illinois  
6 appearing for The City of Danville

7 MR. NEIL F. FLYNN  
8 600 South 2nd Street, Suite 102  
9 Springfield, Illinois 62704  
10 appearing for Norfolk Southern Railway  
11 Company

12 MR. PAUL STREICHER and  
13 MR. DAVID SCHMIDT  
14 70 West Madison Street, Suite 3900  
15 Chicago, Illinois 60602  
16 appearing for CSX Transportation, Inc.

17 MS. JENNY KUNTZ  
18 2300 South Dirksen Parkway  
19 Springfield, Illinois 62764  
20 appearing for Illinois Department of  
21 Transportation

22 MR. AARON TOLIVER  
527 East Capitol Avenue  
Springfield, Illinois  
appearing for the Rail Safety  
Section of the Illinois Commerce  
Commission

20 SULLIVAN REPORTING COMPANY, by  
21 PATRICIA WESLEY  
22 License No. 084-002170

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I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS	EXMNR.
DAVID SCHNELLE		22			9

E X H I B I T S

CITY'S	FOR IDENTIFICATION	IN EVIDENCE.
Nos. 1	6	9
2	6	9
B	11	17
C thru F	6	17
G	30	

1 JUDGE DUGGAN: Pursuant to the authority vested  
2 in me by the State of Illinois and the Illinois  
3 Commerce Commission, I call Docket No. T11-0097 for  
4 hearing.

5 May I have appearances for the record  
6 starting with the City of Danville.

7 MR. GOWER: Edward R. Gower, the law firm of  
8 Hinshaw, Culbertson, 401 South 9th Street, Suite  
9 200, Springfield, Illinois. Telephone number is  
10 217-528-7375. I represent the City of Danville.

11 JUDGE DUGGAN: For Norfolk Southern.

12 MR. FLYNN: My name is Neil F. Flynn. Address is  
13 600 South 2nd Street, Suite 102, Springfield,  
14 Illinois, 62704. I am an attorney of record on  
15 behalf of respondent, Norfolk Southern Railway  
16 Company.

17 JUDGE DUGGAN: And CSX.

18 MR. STREICHER: Good morning, your Honor. Paul  
19 Streicher, S-t-r-e-i-c-h-e-r, and David Schmidt,  
20 S-c-h-m-i-d-t. Our office address is 70 West  
21 Madison Street, Suite 3900, Chicago, 60602.  
22 Mr. Schmidt and I represent CSX Transportation, Inc.

1 JUDGE DUGGAN: Thank you. IDOT.

2 MS. KUNTZ: On behalf of IDOT, Jenny Kuntz,  
3 K-u-n-t-z. Business address is 2300 South Dirksen  
4 Parkway, Springfield, Illinois, 62764.

5 JUDGE DUGGAN: Staff.

6 MR. TOLIVER: Aaron Toliver representing Staff of  
7 the Illinois Commerce Commission's Rail Safety  
8 Section, 527 East Capitol Avenue, Springfield,  
9 Illinois, 62704. Office phone is 217-785-8420.

10 JUDGE DUGGAN: And that is spelled with one L,  
11 correct?

12 MR. TOLIVER: One L, correct, your Honor.

13 JUDGE DUGGAN: Thank you.

14 I will begin by noting -- first of all,  
15 there has been an amended petition filed.

16 And does the city make a motion to file  
17 an amended petition?

18 MR. GOWER: So move the petition, your Honor.

19 JUDGE DUGGAN: Any objection to the motion for  
20 leave to file an amended petition?

21 Neil?

22 MR. FLYNN: No objection, your Honor.

1 JUDGE DUGGAN: Mr. Streicher?

2 MR. STREICHER: No objection.

3 JUDGE DUGGAN: Ms. Kuntz?

4 MS. KUNTZ: No objection.

5 JUDGE DUGGAN: Mr. Toliver?

6 MR. TOLIVER: No objection.

7 (Whereupon, City's  
8 Exhibit Nos. 1 & 2 were  
9 previously marked  
10 for identification.)

11 (Whereupon, City's  
12 Exhibits C thru F  
13 were previously marked  
14 for identification.)

15 JUDGE DUGGAN: The motion for leave to file an  
16 amended petition is granted and the petition, which  
17 was filed on February 10th as an amended petition,  
18 will be deemed to be that amended petition filed  
19 pursuant to leave, as well as the further admitted  
20 Exhibits C and F, which were filed on February 14th  
21 we deemed to be part of that amended petition. That  
22 amended petition changed some of the pleadings to

1 address the proposed crossing and make allegations  
2 in support of the need to close that at-grade  
3 crossing, and publication was made pursuant to rule  
4 and statute in a newspaper of local circulation in  
5 the area crossing, as well as the designated state  
6 newspaper.

7                   And what has been marked as City's  
8 Exhibit No. 1 is the Certificate of Publication from  
9 the state newspaper, the Breeze Courier, certifying  
10 that the attached original cut slips from the  
11 newspaper in that publication was published on  
12 February 10, 2012, which is more than ten days from  
13 today's date of February 21st and by administrative  
14 rule for today's notice.

15                   Also, marked as Exhibit No. 2 is a  
16 similar publication by a newspaper of local  
17 circulation in Champaign County, Illinois, being the  
18 News Gazette. This crossing is indicated in  
19 Danville, Illinois, which is in Newton County?

20       MR. GOWER: Correct.

21       JUDGE DUGGAN: Was there not a Danville  
22 publication?

1 MR. GOWER: Correct. Champaign paper serves the  
2 Danville area. There was not.

3 JUDGE DUGGAN: You say there was not a Danville  
4 paper?

5 MR. GOWER: There's a Vermillion County edition  
6 in Champaign.

7 JUDGE DUGGAN: Okay. Once again, this was  
8 published on February 10, 2012, So, once again, ten  
9 days prior to this hearing date, and it does state  
10 the request for an order of the Commission closing  
11 the crossing described in the petition and notifies  
12 of the hearing at 2 p.m., today at this location.

13 Does anybody have any objection to  
14 admission of Exhibits 1 and 2 as described,  
15 Mr. Flynn?

16 MR. FLYNN: No, sir.

17 JUDGE DUGGAN: Mr. Streicher?

18 MR. STREICHER: No objection.

19 JUDGE DUGGAN: Ms. Kuntz?

20 MS. KUNTZ: No objection.

21 JUDGE DUGGAN: And Mr. Toliver.

22 MR. TOLIVER: No objection.



1 JUDGE DUGGAN: City, your exhibit.

2 MR. GOWER: We move for admission of the exhibits  
3 as Exhibits 1 and 2.

4 JUDGE DUGGAN: Okay. Exhibits No. 1 and 2 are  
5 admitted.

6 (Whereupon, City Exhibit  
7 Nos. 1 & 2 were received  
8 in evidence.)

9 Now we have to swear in the witness.

10 What is your name?

11 MR. SCHNELLE: Dave Schnelle.

12 JUDGE DUGGAN: Spell your last name.

13 THE WITNESS: S-c-h-n-e-l-l-e.

14 JUDGE DUGGAN: Raise your right hand.

15 (Witness sworn.)

16 DAVID SCHNELLE,  
17 called as a witness herein, having been first duly  
18 sworn, was examined and testified as follows:

19 EXAMINATION

20 BY

21 JUDGE DUGGAN:

22 Q. Okay. Once again, for the record, under

1 oath, would you please state your name.

2 A. David Schnelle, City of Danville.

3 Q. And what is your position with the City of  
4 Danville?

5 A. I am the city engineer.

6 Q. All right. And how long have you been the  
7 city engineer?

8 A. Since 2005.

9 Q. And in that position have you been involved  
10 in the project, which is the subject of the position  
11 today?

12 A. I have.

13 Q. And how do you refer to that project?

14 A. The Fairchild overpass or the Fairchild  
15 Subway Replacement Project.

16 Q. Okay. Have you, in fact, been primarily in  
17 charge as the city engineer?

18 A. Yes, I have.

19 Q. And in the course of that, have you prepared  
20 certain documents for exhibits today?

21 A. Yes, I have, your Honor.

22 Q. I'll show you what's been marked as City's

1 Exhibit 1 and ask you to identify that document.

2 A. This is the project location map, your

3 Honor.

4 Q. What does the project location map mean?

5 A. This is where the actual road -- or project

6 improvement will take place on Fairchild Street.

7 Q. Okay. Did you prepare that?

8 (Whereupon, City's

9 Exhibit B was

10 previously marked for

11 identification.)

12 A. Yes, I did, your Honor.

13 Q. I'm going to show you what's been marked as

14 Exhibit B and ask you to identify that.

15 A. Yes, your Honor. These are the typical

16 sections and general plan that were prepared for as

17 part of the project.

18 Q. Okay. Now is that prepared by a

19 different -- by an independent consultant?

20 A. This was prepared by Albert Bennish &

21 Company out of Chicago who we engaged and hired to

22 perform the phase one and phase two engineering for

1 the project.

2 Q. Okay. And you reviewed and approved those  
3 plans?

4 A. I did, your Honor.

5 Q. Okay. Thank you.

6 I hand you Exhibit C and ask you if you  
7 could tell us what that is.

8 A. Exhibit C, your Honor, is a summary of costs  
9 associated with the project, also a division of the  
10 costs. Also included in Exhibit C are a detailed  
11 cost estimate and then a map depicting where  
12 eligible, ineligible costs were associated with the  
13 project.

14 Q. And that's depicted by color-coding in part?

15 A. Yes, it is, your Honor.

16 Q. Thank you.

17 Excuse me. Did you prepare that?

18 A. I prepared the summary of costs and our  
19 consultant, Albert Bennish & Company, prepared the  
20 detailed cost estimate and the aerial of the project  
21 in color-coded format.

22 Q. Okay. And you say that also included the

1 apportionment costs?

2 A. The apportionment cost was prepared by me,  
3 your Honor.

4 Q. Okay. And that was prepared by your  
5 understanding as to agreements reached between the  
6 parties who would bear which costs, correct?

7 A. That is correct, your Honor.

8 Q. And showing you Exhibit D and see if you can  
9 identify that.

10 A. Yes, your Honor.

11 Q. Okay. What is that?

12 A. These are various resolutions and agreements  
13 passed and approved by the City Council of the City  
14 of Danville in support of this project.

15 Q. And were you involved in that?

16 A. Yes, I was, your Honor.

17 Q. And you believe that they sufficiently  
18 provide the authority to seek for this project?

19 A. I do, your Honor.

20 Q. Thank you.

21 And showing you what's been marked as  
22 Exhibit E(1) and E(2), starting with E(1),

1 can you identify that?

2 A. Yes, your Honor. These are documents  
3 prepared to show the distance traveled -- needed to  
4 be traveled by various parties to circumvent the  
5 crossing under Fairchild Street.

6 Q. And it's -- they're both aerial views; is  
7 that correct?

8 A. They're both aerial views showing the  
9 direction of travel and length of travel.

10 Q. Okay. And satellite photos?

11 A. These are aerial photograph that the city  
12 possesses. They're not satellite. They were  
13 actually by aerial.

14 Q. Okay. And they show the area of the  
15 crossing itself that you are petitioning to close  
16 the upper Fairchild, as well as the route that  
17 someone would have to go to get from one side of the  
18 crossing to the other side of the crossing; is that  
19 correct?

20 A. That's correct.

21 Q. Thank you.

22 And showing you what I have marked

1 as City's Exhibit F, can you identify that?

2 A. Yes. These are the fencing that we are  
3 proposing to install as part of the project for  
4 pedestrian protection measures and shows where the  
5 proposed fencing would be located, as well as some  
6 landscaping, tree plantings.

7 Q. Were you involved in the preparation of  
8 this?

9 A. Yes, I was, your Honor.

10 Q. Thank you.

11 Okay. The city want to move?

12 MR. GOWER: Your Honor, I move the admission of  
13 City's Exhibits A, B, C, D, E, and F.

14 JUDGE DUGGAN: Any objection, Mr. Flynn?

15 MR. FLYNN: E(1), your Honor --

16 JUDGE DUGGAN: I'm sorry. I didn't identify and  
17 separate those out. To clarify that, E(1) and E(2)  
18 are pictures of the same areas?

19 A. Yes, they are, your Honor.

20 Q. And E(1) similarly has different -- is  
21 attempting to show different measurements, correct?

22 A. Yes. E(1) relates to travel requirements

1 for the specific neighborhood while E(2) relates to  
2 shortcut or cut-through traffic through the upper  
3 crossing.

4 Q. E(2) shows that if you take the road north  
5 and east via Colette and upper Fairchild through the  
6 crossing to Bowman Street --

7 A. To Bowman Street.

8 Q. -- that it would be 1.8 miles shorter than  
9 if you took the opposite route, which is Williams  
10 to Bowman north; is that correct?

11 A. That is correct, your Honor.

12 Q. And that's the sole purpose of E(2),  
13 correct?

14 A. That is correct.

15 Q. Whereas, E(1) is to show all other matters  
16 related to the necessary crossings, correct?

17 A. That is correct.

18 Q. Okay. Thanks.

19 MR. GOWER: If I might restate my motion, your  
20 Honor. The city moves for the admission of Exhibits  
21 A, B, C, D, E(1), E(2), and F. We moved Exhibits 1  
22 and 2 into evidence.



1 JUDGE DUGGAN: Yes. Okay.

2 Mr. Flynn, any objection to the

3 exhibits as cited by Mr. Gower?

4 MR. FLYNN: No objection.

5 JUDGE DUGGAN: Mr. Streicher, any objection to

6 admission of these exhibits?

7 MR. STREICHER: Your Honor, the only -- I have no

8 objection to the exhibits. I would ask for

9 cross-examination only as to Exhibit C.

10 JUDGE DUGGAN: Very good.

11 Ms. Kuntz, any objection?

12 MS. KUNTZ: No objection.

13 JUDGE DUGGAN: Mr. Toliver?

14 MR. TOLIVER: No objection, your Honor.

15 JUDGE DUGGAN: The City's Exhibits A and B were

16 admitted. Exhibit C will be admitted. Exhibit D

17 will be admitted. Exhibit E(1) and E(2) are

18 admitted and Exhibit F.

19 (Whereupon, City's

20 Exhibits D thru F were

21 received in evidence.)

22

1 All right.

2 Let's go off the record.

3 (Off the record.)

4 Back on the record.

5 JUDGE DUGGAN: Q. I do apologize. Mr. Schnelle?

6 A. Schnelle.

7 Q. Schnelle like in German.

8 Mr. Schnelle, have you reviewed the  
9 verified petition filed in Docket 11-0097?

10 A. I have, yes.

11 Q. And if you were asked about each of those  
12 allegations one by one, would you testify that each  
13 alleged fact is true and correct?

14 A. Yes, with the exception of my knowledge of  
15 the number of trains and the speed of the trains on  
16 each track by the railroad.

17 Q. Have you come to updated knowledge of that  
18 or do defer that knowledge?

19 A. I would defer that knowledge.

20 Q. And also, to the extent that anything  
21 in the exhibits is incorporated into the allegations  
22 of the petition and to the extent by stating that

1 you are verifying the accuracy of the exhibits,  
2 would that be subject to any changes thereto that  
3 are included in Exhibits A through F admitted into  
4 evidence today?

5 A. Yes, your Honor.

6 Q. Okay. Because, in fact, subsequent changes  
7 were made to Exhibit F were verified and filed and  
8 those changes are, in fact, incorporated into  
9 Exhibits A through F; isn't that correct?

10 A. That's correct.

11 MR. STREICHER: Judge, can we go off the record  
12 for a moment, please.

13 JUDGE DUGGAN: Yes. Off the record.

14 (Off the record.)

15 Back on the record.

16 Off the record it's been noted  
17 that the Exhibit C previously admitted was an older  
18 version I believe; is that correct, Mr. Gower?

19 MR. GOWER: The first page of Exhibit C was based  
20 on a prior exhibit and was incorrectly attached to  
21 what was marked as Exhibit C, and so I would move to  
22 substitute the updated Exhibit C that we have

1 provided to you and that was attached to the  
2 verified petition as the cover page for Exhibit C.

3 JUDGE DUGGAN: Okay.

4 MR. GOWER: I can put that into English if you  
5 want.

6 JUDGE DUGGAN: Well, actually I think it's  
7 cleaner for me to do it if you withdraw Exhibit C --  
8 if you move to withdraw Exhibit C.

9 MR. GOWER: I move to withdraw Exhibit C.

10 JUDGE DUGGAN: Any objection to withdrawing  
11 Exhibit C, Mr. Flynn?

12 MR. FLYNN: No objection.

13 JUDGE DUGGAN: Mr. Streicher?

14 MR. STREICHER: No objection.

15 JUDGE DUGGAN: Ms. Kuntz?

16 MS. KUNTZ: No objection.

17 JUDGE DUGGAN: Mr. Toliver?

18 MR. TOLIVER: No objection.

19 JUDGE DUGGAN: Okay. Exhibit C is withdrawn.

20 And now would you like to introduce a  
21 new corrected

22 Exhibit C or substitute Exhibit C? Is that what you

1 would like to do?

2 MR. GOWER: I move to introduce a new Exhibit C,  
3 your Honor.

4 JUDGE DUGGAN: Q. Okay. Then, Mr. Schnelle, I  
5 show you what has been submitted as Exhibit C, and  
6 this is slightly different, at least on the front  
7 page, than what we previously discussed in Exhibit  
8 C; is that correct?

9 A. That is correct, your Honor.

10 Q. And in reviewing what is now marked as  
11 Exhibit C and being offered into evidence, does that  
12 appear to be true and correct of the updated  
13 document?

14 A. Yes, it does, your Honor.

15 Q. And, once again, did you participate in  
16 preparation of this document?

17 A. I did, your Honor, again, with the input of  
18 other persons in determining the apportionment of  
19 the costs.

20 Q. And with your own determination of the total  
21 costs?

22 A. That is correct, your Honor.

1 Q. And, similarly, once again, the back page is  
2 the overview of the project color-coded to help show  
3 the different portions of the project; is that  
4 correct?

5 A. That's correct.

6 JUDGE DUGGAN: Very good. Then any objection to  
7 the admission of this substituted Exhibit C,  
8 Mr. Flynn?

9 MR. FLYNN: If I could just ask a couple of quick  
10 questions about this exhibit.

11 JUDGE DUGGAN: Go ahead.

12 DIRECT EXAMINATION

13 BY

14 MR. FLYNN:

15 Q. Mr. Schnelle, I note that the Footnote No. 4  
16 refers to a lump sum payment of \$550,000 to be  
17 contributed by CSX. Do you see that?

18 A. I see it as Footnote No. 5.

19 Q. Footnote No. 5. I'm sorry. That  
20 \$550,000 -- do you have an agreement with counsel  
21 for CSX as to when that \$550,000 payment will be  
22 due?

1       A.     Yes.   It will be due on or before April 15,  
2   2013.

3       Q.     All right.   And then I note in Footnote  
4   No. 6 there's a reference to a lump sum payment of  
5   \$360,000 from the Norfolk Southern.   Do you see  
6   that?

7       A.     Yes, I do.

8       Q.     And are you aware of an agreement with  
9   Norfolk Southern pursuant to which that lump sum  
10   payment of \$360,000 would be due on or before  
11   April 15, 2013?

12      A.     I do.

13      Q.     That is the agreement of the parties; is  
14   that right?

15      A.     That is correct.

16      Q.     And with respect to the \$550,000 payment  
17   from the CSX that's a capped payment, that is they  
18   will not -- the project costs go up, they will not  
19   be asked to contribute more than that \$550,000; is  
20   that correct?

21      A.     That's correct.

22      Q.     And the same will be true with respect to

1 the Norfolk Southern's 360,000 payment?

2 A. That is correct.

3 MR. FLYNN: I have nothing further.

4 Thank you, your Honor.

5 MR. GOWER: I move the admission of Exhibit C.

6 JUDGE DUGGAN: Okay. Do you need follow-up on

7 that, Mr. Streicher?

8 MR. STREICHER: My only question, Judge, in

9 Footnotes 5 and 6 it says the letters, quote, "NTE,"

10 end quote. I assume that means not to exceed.

11 THE WITNESS: That's correct.

12 MR. STREICHER: If that's true, I have no

13 questions then, Judge.

14 JUDGE DUGGAN: Okay. Any -- excuse me. Any

15 objection to admission of this substituted Exhibit

16 C, Mr. Flynn?

17 MR. FLYNN: No objection, your Honor.

18 JUDGE DUGGAN: Mr. Streicher?

19 MR. STREICHER: No objection.

20 JUDGE DUGGAN: Ms. Kuntz?

21 MS. KUNTZ: No objection.

22 JUDGE DUGGAN: Mr. Toliver?



1       MR. TOLIVER:   No objection, your Honor.

2       JUDGE DUGGAN:   Okay.   Now we need to go back.

3   I'm sorry.   Exhibit C is admitted into evidence.

4                               (Whereupon, Exhibit C

5                               was received in

6                               evidence.)

7               And now we need to go back off the

8   record for a second.

9                               (Off the record.)

10               Back on the record.

11       JUDGE DUGGAN:   We had an off-the-record

12   discussion to clarify -- what is the date to testify

13   to?   April 1st or April 15th?

14       JUDGE DUGGAN:   Q.   April 15; is that correct,

15   Mr. Schnelle?

16       A.   That's correct.

17       JUDGE DUGGAN:   Okay.   And, in fact, that was not

18   reflected in the documents we had to-date and we'll

19   reflect that in the order.

20               Does anybody have anything else

21   with regard to that Exhibit C before we move

22   forward?

1 MR. GOWER: Judge, that exhibit I don't

2 remember --

3 MR. STREICHER: We withdraw our request for cross

4 examination on Exhibit C.

5 JUDGE DUGGAN: Very good. Well, okay. Let's go

6 back off the record, Pat. I'm sorry.

7 (Off the record.)

8 Pat, we are back on the record.

9 JUDGE DUGGAN: Q. Mr. Schnelle, I just want to  
10 talk to you about this crossing that you are closing  
11 as a part of this project. Now is it correct that  
12 the underpass is known as Fairchild; is that  
13 correct.

14 A. Yes.

15 Q. And then just north of and at ground level  
16 north of the old overpass and at ground level is a  
17 road called Fairchild also?

18 A. That is correct, your Honor.

19 Q. And it is certainly known at least locally  
20 as upper Fairchild; is that correct?

21 A. Yes.

22 Q. Is it noted as upper Fairchild to the extent

1 it parallels the underpass?

2 A. Yes, your Honor.

3 Q. And that road crosses the CSX main line,  
4 which is the eastern of the backup? There's a set  
5 of tracks that cross the underpass on the west,  
6 correct?

7 A. Correct.

8 Q. And then there's a single CSX main line that  
9 crosses the underpass to the right of those other  
10 tracks, correct?

11 A. Yes.

12 Q. That CSX main line crosses Fairchild at --  
13 or upper Fairchild at grade; is that correct?

14 A. That is correct.

15 Q. And as part of this overpass project  
16 replaces the underpass, you also plan to construct  
17 part of the underpass, or at least supporting  
18 structures, on the property presently occupied by  
19 that at grade crossing?

20 A. We do. Just as a point of clarification,  
21 the proposed structure is the overpass, and, yes, it  
22 will occupy the space taken by the at-grade crossing

1 on upper Fairchild.

2 Q. I didn't understand the clarification.

3 A. Just I heard underpass and I just wanted to  
4 make sure it was overpass.

5 Q. Okay. Thank you.

6 And, therefore, I believe this project  
7 is the at-grade crossing as proposed; is that  
8 correct?

9 A. That is correct.

10 Q. And you have been informed of the  
11 Commission's criteria for proposing a crossing?

12 A. Yes, we have, your Honor.

13 Q. And you have been informed of the term,  
14 quote, "adverse distance," unquote?

15 A. Yes.

16 Q. Okay. And you understand that to mean the  
17 distance from one side of the closed crossing to the  
18 other by the nearest alternative route once the  
19 crossing is closed?

20 A. Yes, I do, your Honor.

21 Q. All right. And what is the distance from  
22 one side of the crossing to the other by the nearest

1 route?

2 A. That's approximately one mile, your Honor.

3 Q. Okay. And you understand also that the  
4 regulations state that the alternative route must be  
5 .75 miles or less in an incorporated area in order  
6 to be considered an adequate alternative route  
7 to support the closing?

8 A. Yes, your Honor.

9 Q. Have you done calculations to determine  
10 what -- what areas will require more than 75 miles  
11 travel to go from one side of the crossing to the  
12 other? And if you need clarification of that  
13 question, I will be glad to do it.

14 A. No, your Honor. I don't need clarification.  
15 We have calculated those areas that have more than  
16 one mile to travel through the crossing.

17 Q. And have you put that in writing somewhere?

18 A. We have put a document in writing that shows  
19 the change in distance for the particular areas, but  
20 as far as coming up with the actual document showing  
21 that one mile distance, that has not been introduced  
22 into evidence, your Honor.

1 JUDGE DUGGAN: Let's go off the record.

2 (Off the record.)

3 (Whereupon, City's

4 Exhibit G was marked

5 for identification.)

6 JUDGE DUGGAN: Q. Showing you what's marked as

7 Exhibit G, is that a letter from you to Aaron

8 Toliver, Commission staff.

9 A. E-mail in an e-mail format. Your Honor,  
10 yes, it is.

11 Q. It's a printed-out version of the e-mail,  
12 correct?

13 A. Yes, it is.

14 Q. And in that are you explaining to Aaron your  
15 calculations as to defining what areas are outside  
16 the .75 mile distance such would take these certain  
17 houses, residents of certain houses, tracks from  
18 certain houses more than .75 miles to the site of  
19 the crossing furthest from you?

20 A. Yes, your Honor.

21 Q. And can you explain that to us? Is there  
22 three different areas that fall into that category?

1       A.     Yes, your Honor.  There's three areas.  Area  
2   No. 1, as referenced in Exhibit E(1), is the area  
3   north of Fairchild Street bounded between May and  
4   Bowman.

5       Q.     Let's address that first one.  And how many  
6   liveable residences or businesses are in that area?

7       A.     There's 17 houses that are habitable and  
8   there are three businesses in that area that are  
9   habitable.

10      Q.     Now is that surrounded by purple lines and  
11   arrows?

12      A.     Yes, it is, your Honor.

13      Q.     All right.  And I will note that you did not  
14   get the block to the west of that but still next to  
15   the CSX tracks.  Why is that area not circled?

16      A.     That area is all served by the same street  
17   network, your Honor, and joins Jewell Street as well  
18   as the area to the east of it.

19      Q.     I didn't understand.  I didn't understand  
20   why that does not make it.

21      A.     Well, it's -- that area is serviced by  
22   Jewell Street as is right here (indicating).  This

1 area here is served by Jewell (indicating) and the  
2 area that's bounded on the east and the west, so it  
3 includes that area, that one block.

4 Q. Okay. So of these 17 habitable houses and  
5 businesses, are some of them in the area that is not  
6 bounded by the purple line?

7 A. Yes, your Honor.

8 Q. So the first line is only showing the route,  
9 not intended to show all of the houses?

10 A. That's correct. That is their roadway  
11 access.

12 Q. Area 1, in fact, includes the purple line?

13 A. That's correct.

14 Q. Area 2?

15 A. Area 2 is south of Fairchild. It's the area  
16 bounded by the CSX tracks, Fairchild Street, and  
17 Bowman Avenue.

18 Q. Okay. And I'm not being able to locate the  
19 particular ending point on Bowman or on this Exhibit  
20 E(1).

21 A. The CSX track crosses Bowman at the southern  
22 point of that area. It's the same CSX track that



1 crosses Fairchild Street at grade.

2 Q. So you are saying that all traffic north and  
3 east of CSX would require more than .75 miles to get  
4 from any point in that area all the way to the  
5 furthest site crossing?

6 A. They're -- not all of them, your Honor, but  
7 most of them would, yes.

8 Q. Okay. Do you know where that point is?

9 A. That point would be somewhere between Myers  
10 and the CSX track, your Honor.

11 Q. Okay. And you are stating that how many  
12 houses and businesses are in that area?

13 A. There's eight homes that are occupiable and  
14 there's one business.

15 Q. Looks like there's approximately 12.

16 A. There are many homes in there. Some of  
17 those homes have been demolished since this aerial  
18 photography was taken, and some of those homes are  
19 boarded up and labeled so that no entry is possible  
20 into them.

21 Q. And then when you count 12 --

22 A. We counted eight homes in the area that

1 could be occupied.

2 Q. Okay. And does that include all the way  
3 down to the CSX track and south of Myers?

4 A. Yes, it does, your Honor.

5 Q. So you included in there an area that may,  
6 in fact, be a little bit larger than a couple of  
7 those homes might, in fact, be within a .75  
8 distance; is that correct?

9 A. That is correct, your Honor.

10 Q. Okay. And then the Area 3?

11 A. Area 3 is the largest area, and it is  
12 bounded at the north by Fairchild Street. It's  
13 bounded by -- and it's south of the CSX track, and  
14 it's west of the Norfolk Southern tracks, and the  
15 southern boundary of it is Grigg Street, the eastern  
16 boundary of Bowman, and that area has 33 homes that  
17 can be occupied, four businesses, and not all of  
18 those homes again are within the -- many of those  
19 homes have less than the .75 miles adverse travel.

20 Q. So if you had to find out which ones  
21 were --

22 A. Basically any homes south of Liford Street

1 would have an adverse travel distance of less than  
2 .75 miles.

3 Q. Did you say south of Liford?

4 A. Correct.

5 Q. So do you know how many habitable homes and  
6 businesses there are north of Liford Street?

7 A. Not at this time, your Honor. I can get  
8 that information if you want to go off the record.

9 Q. Yes.

10 Yes, let's go off the record.

11 (Off the record.)

12 Back on the record.

13 All right. So you calculate which --  
14 excuse me -- how many dwellings and businesses were,  
15 in fact, further than .75 miles from the opposite  
16 crossing in Area 2, and the number of habitable  
17 dwellings and businesses that are further than .75  
18 miles from the opposite crossing is how many?

19 A. There are seven dwellings and one business.

20 Q. Okay. And in Area 3 how many habitable  
21 dwellings and businesses are there which are greater  
22 than .75 miles from the opposite sited crossing?

1       A.     Thirteen dwellings and two businesses.

2       Q.     Okay.  And Area 1, which, in fact, includes  
3 the block to the west of the purple line is it  
4 correct that all of those dwellings and businesses  
5 are more than .75 miles from the opposite cited  
6 crossing?

7       A.     That is correct, your Honor.

8       Q.     And, again, how many habitable dwellings and  
9 businesses were there?

10      A.     There's 17 dwellings and three businesses.

11                     Your Honor, may I make a correction in  
12 Area 2?  One of the businesses that was not  
13 counted -- I'm not sure how to phrase it -- the  
14 Danville Rescue Mission, should probably be counted  
15 as a business and that would bring the total number  
16 of businesses in Area 2 to two.

17      Q.     It's a mission people live in?

18      A.     It's a homeless shelter, your Honor, for  
19 transient use.

20      Q.     Okay.  Thank you.

21                     Now would you agree that the traffic to  
22 and from the 13 habitable -- or two businesses north

1 of Liford in Area 3 is only traffic that would, in  
2 fact, be -- have to go no more than .75 miles? Let  
3 me ask that whole question again.

4                   The traffic east of the CSX tracks  
5 north and south of Fairchild, from those houses on  
6 that -- on that east CSX track, which are more than  
7 .75 miles from the opposite crossing, that is only  
8 that traffic visiting the 13 dwellings on the west  
9 side of the CSX track, which is .75 miles from the  
10 site, is the only track which would, in fact, be  
11 traveling more than .75 miles and maybe better?

12       A.     I think your answer is yes. If you are  
13 saying -- the answer to your question is yes. If  
14 you are saying that these people here (indicating)  
15 want to get over to this area here (indicating), or  
16 vice versa, that's the only area that has an adverse  
17 travel of .75 miles or more, then the answer is yes.

18       Q.     Thank you.

19       MR. GOWER: You are describing the reference, for  
20 purposes of the exhibit --

21       COURT REPORTER: I am sorry. I can't hear.

22       MR. GOWER: We couldn't hear that.

1 JUDGE DUGGAN: Mr. Gower, would you repeat what  
2 you said for the court reporter word for word.

3 MR. GOWER: Mr. Schnelle, if when you were  
4 referring to an exhibit and describing a particular  
5 area, if you could describe that area instead of  
6 identifying it as here to there, it will make for a  
7 better record.

8 Can you hear me?

9 COURT REPORTER: Yes.

10 JUDGE DUGGAN: Q. So, Mr. Schnelle, you want to  
11 go ahead and put that in your own words, and, of  
12 course, the problem we have got here is your Area 3  
13 is not a shorthand reference to just the area I'm  
14 concerned with. So we have to make it kind of more  
15 burdensome by referring to Area 3 north of Liford.

16 A. Sure.

17 Q. And that area --

18 A. Let me -- if I may, may I further phrase it  
19 this way. The homes, or the dwellings, or  
20 businesses that have adverse travel of greater than  
21 .75 miles from the east side to the west side would  
22 be the area between May Street and Myers and between

1 the CSX tracks on the west and Bowman on the east.

2 Q. Now wait a second. I thought we were  
3 clarifying that not every dwelling or business  
4 within that area was, in fact, more than point 75  
5 miles from the opposite crossing.

6 A. I think this -- and if I may, this area, the  
7 way I described that, between May and Myer Streets,  
8 it includes the homes that we indicated had the  
9 greater adverse travel distance of .75 miles.

10 Q. I'm still looking for May.

11 A. May is the street just north of Fairchild  
12 Street.

13 Q. Okay. So you are also -- when you were  
14 describing the area, were you not also including  
15 that south of Myer?

16 A. The area south of Myer does not have an  
17 adverse travel distance of greater than .75.

18 Q. Okay. So that stops right at Myer Street?

19 A. Correct.

20 Q. Okay. Let's do this. Let me refer to the  
21 area within 2 -- a subarea of 2. That subarea of 2  
22 is going to be the ones that have an adverse

1 distance of .75 miles or greater. We are going to  
2 call that Subarea 2(A). Okay. You understand what  
3 I'm saying?

4 A. Yes, I do.

5 Q. And then over in Area 3 we are going to call  
6 that portion of Area 3, which is greater adverse  
7 distance of point 75 miles, we're going to call that  
8 3(A).

9 A. All right.

10 Q. Now over in Area 1, all the residences and  
11 businesses in 1 already have greater adverse  
12 distance than .75, correct?

13 A. Correct.

14 Q. So my question was only tracks to or from  
15 3(A) going to or from Area 1 or 2(A) is the only  
16 traffic that would, in fact, have more than .75  
17 miles adverse distance?

18 A. That's correct.

19 Q. And so, therefore, we are concerned about  
20 the people who are going to and from Area 3(A),  
21 which is the 13 dwellings and two businesses,  
22 correct?



1       A.     Correct.

2       Q.     Okay.  And those 13 dwellings and two  
3 businesses still there their average distance is not  
4 the full mile.  They're slightly more than point 75;  
5 is that correct?

6       A.     Yes, I believe that is correct.

7       Q.     Well, you have got a .13 -- strike that.

8                     Let me go off the record.

9                             (Off the record.)

10                    Okay.  Back on the record, please.

11 All right.  I am going to pass up on that last  
12 question here and revise it and ask you that the  
13 habitable residences closest to the west side at the  
14 closed crossing would be how far from the  
15 destination east of the crossing and closest to the  
16 crossing?

17       A.     It would be approximately .86 miles, your  
18 Honor.

19       Q.     Okay.  So all of the residences which have a  
20 technical adverse distance of more than .75 miles in  
21 the Subarea 2(A) are in reality no more than .86  
22 miles from the closest destination point on the

1 other side of the crossing, correct?

2 A. That is correct.

3 Q. And for any of these 13 dwellings and two  
4 businesses within this Area 2(A), if they're going  
5 anywhere but Area 1 or 2(A), then they're not  
6 traveling an adverse distance more than .75 miles,  
7 correct?

8 A. That is correct, your Honor.

9 Q. And now the regulations also ask us to  
10 consider whether traffic that will be rerouted from  
11 the closed crossing area to the alternative route  
12 whether the alternative route is of sufficient width  
13 to accommodate its existing traffic plus additional  
14 traffic.

15 It's my understanding that Fairchild  
16 and Colette are what you refer to as a local road;  
17 is that fair?

18 A. Yes, they're a local road.

19 Q. And that traffic by an alternate route to  
20 get to the other side of the crossing is Grigg Road,  
21 and Bowman, then back on Fairchild, correct?

22 A. Correct, Grigg, Bowman to Fairchild, yes.

1 Q. And they are all able to -- or greater than  
2 the capacity of Fairchild and Colette; is that  
3 correct?

4 A. Greater than the capacity of upper Fairchild  
5 and Colette, yes.

6 Q. Is Grigg also a local road similar to  
7 Fairchild and Colette?

8 A. Yes, it is, your Honor.

9 Q. Is Bowman an arterial road?

10 A. Bowman is an arterial pre-length road.

11 Q. And that has a greater design capacity?

12 A. Yes, your Honor, it does.

13 Q. Do you know -- okay. Strike that.

14 Again, there's a CSX crossing on Bowman  
15 Street between Williams and Fairchild, correct?

16 A. Correct.

17 Q. And do you know the traffic count there?

18 A. The average daily traffic count is  
19 approximately 9,000.

20 Q. Okay. And you agree that the design of  
21 Bowman Road and that alternate crossing would  
22 accommodate any additional traffic due to the

1 closing on Fairchild?

2 A. That is correct, your Honor.

3 Q. And does Grigg and Bowman also -- any type  
4 of traffic can lead to travel on Fairchild and  
5 Colette?

6 A. Yes, your Honor.

7 Q. The type of vehicles that travel on  
8 Fairchild and Colette are they primary passenger  
9 vehicles?

10 A. Yes, your Honor.

11 Q. Does it have semi-trailers or hazardous  
12 transportation?

13 A. No, your Honor. An occasional semi-trailer  
14 would be to service the business -- the Schomburg  
15 and Schomburg contracting location that the city has  
16 purchased. So those semis will no longer be  
17 delivering to that site.

18 Q. And how do you spell Schomburg?

19 A. S-c-h-o-m-b-u-r-g.

20 Q. Now have you looked at where hospitals,  
21 ambulance services, police stations, and fire  
22 stations are in relation to the crossing and how

1 that would affect their routes, if at all?

2 A. Yes, your Honor.

3 Q. Let's start with the hospital, Provena  
4 Hospital.

5 A. Provena Hospital is to the west, your Honor.

6 Q. Now is that to the west of all the railroad  
7 tracks and to the west of the existing Fairchild  
8 underpass to the west of the proposed overpass?

9 A. Yes, it is, your Honor.

10 Q. And is it just off of Fairchild?

11 A. It's off of Fairchild and Logan Avenue.

12 Q. Okay. So is it likely that traffic to  
13 Provena would be traveling on a new overpass or a  
14 north or south arterial road?

15 A. Yes, your Honor, most likely on the  
16 Fairchild  
17 overpass.

18 Q. And that traffic, even in Area 1, would be  
19 more efficiently served by traveling two or three  
20 blocks to the overpass access on Martin?

21 A. Yes, your Honor.

22 Q. And that would be their best route to get to

1 go back west, even though they have to go two or  
2 three blocks out of the way?

3 A. Correct, your Honor.

4 Q. And the same for Area 2?

5 A. The same for Area 2.

6 Q. Okay. And Area 3, well, would be their best  
7 route to the hospital?

8 A. Yes. Their best route would actually be  
9 unchanged, your Honor. They do not -- their best  
10 route would be from Colette south to Williams to the  
11 hospital.

12 Q. At one time they might have been served by  
13 the underpass?

14 A. No, your Honor. They had no way to access  
15 the underpass from that location.

16 Q. Not from Colette Road?

17 A. No, there was always one way south. Kimball  
18 was one way south.

19 Q. So that was the only way for traffic in the  
20 underpass to go south?

21 A. Correct, your Honor.

22 Q. Okay. And is there a veterans hospital east

1 of the CSX tracks and south of Fairchild?

2 A. Yes, your Honor.

3 Q. Is that a hospital that people go to for  
4 emergency treatment?

5 A. No, your Honor.

6 Q. If they did, would their access to these  
7 areas change? That hospital is east of the  
8 overpass, correct?

9 A. The hospital is east of the overpass, yes.

10 Q. Okay. So Area 1 and Area 2 would remain the  
11 same, because they're always east of the crossing to  
12 be closed, so that would not change their effect at  
13 all?

14 A. That is correct.

15 Q. And Area 3, again, they would have to go  
16 south to access an arterial road in any event,  
17 correct?

18 A. Correct.

19 Q. There would be no point in them going north  
20 to the Fairchild crossing because they would be  
21 going away from the hospital to go north. They  
22 would want to go south because the hospital is south

1 of Fairchild; is that correct?

2 A. That is correct.

3 Q. Ambulance service, Medix, M-e-d-i-x,  
4 Ambulance Service is in the area; is that correct?

5 A. Yes, your Honor.

6 Q. Is that over by Provena?

7 A. Yes, your Honor.

8 Q. Would the same routing issue we discussed be  
9 the same for the hospital?

10 A. Yes, your Honor.

11 Q. Okay. Danville Police Department is south  
12 and west of the proposed overpass; is that correct?

13 A. That's correct.

14 Q. Okay. So, once again, they would not be  
15 passing through Fairchild -- through a crossing at  
16 the upper Fairchild level in any event, correct?

17 A. No, your Honor.

18 Q. They would be using the overpass or another  
19 arterial road, correct?

20 A. Correct.

21 Q. And the fire departments in the area are  
22 where in relation to the crossing?



1       A.     The fire departments are east of the  
2 crossing. The closest one is approximately three  
3 blocks north of Fairchild and the next arterial  
4 street to the east.

5       Q.     Three blocks north of Fairchild and --

6       A.     The nearest arterial east, so approximately  
7 one mile east.

8       Q.     What road is that?

9       A.     Griffin Street.

10      Q.     One mile east, okay, of the crossing?

11      A.     Yes, your Honor.

12      Q.     Okay. And so, again, Areas 1 and 2 would  
13 not be affected at all, because they're east of the  
14 crossing just as the department -- excuse me -- fire  
15 department, correct?

16      A.     Correct.

17      Q.     And Area 3 of --

18      A.     Area --

19      Q.     Go ahead.

20      A.     The Area 3 fire services provided by UniRay  
21 (phonetic) Station on east Main Street or a station  
22 west of the project on Seminary Street and their

1 fire service will remain unchanged.

2 Q. Because their routes would go south to  
3 Williams or how would fire trucks get to that area  
4 to 3(A)?

5 A. A fire truck if it was from east Main would  
6 go north on Bowman, and then east on Grigg to  
7 service that area -- west on Grigg, pardon me.

8 Q. I thought you said that the fire station was  
9 west of the project.

10 A. There's one west and there's one east.

11 Q. Let's handle each one separately then. So  
12 the one east of what the project --

13 A. The one east of the project --

14 Q. -- is that the one that's also on Griffin  
15 Street a mile?

16 A. No. It's a separate fire station, your  
17 Honor. It's south of that one on Main Street.

18 Q. And Main is north/south?

19 A. Main is an east/west arterial state route.

20 Q. How far east of Bowman?

21 A. Approximately a mile-and-a-half.

22 Q. So that route would go to Bowman and Grigg?

1       A.     Correct.

2       Q.     And the fire station west of the project

3 would access Area 3(A) how?

4       A.     It would come -- it would come from the west

5 heading east on Seminary Street and then it would

6 head north on Colette or Kimball.

7       Q.     Seminary is --

8       A.     Seminary is not shown.  It's south of

9 Williams.  It's south of the project area that's

10 shown here.

11      Q.     And why would they use Seminary rather than

12 Williams?

13      A.     There is a grade separation structure on

14 Seminary.

15      Q.     Do they have a crossing grade separation?

16 Okay.  They would use grade separation and try to

17 avoid an at grade?

18      A.     Correct.  They would avoid the at grade of

19 Williams.

20      Q.     Seminary to what?

21      A.     To either Colette or Kimball.

22      Q.     I thought Kimball was one way south.

1       A.     Only in the first block south of  
2 Fairchild.

3       JUDGE DUGGAN:   Off the record.

4                               (Off the record.)

5                               Back on the record.

6       JUDGE DUGGAN:   Q.   Do all the roads of the  
7 alternate roadway, which would be Grigg, Bowman, and  
8 Fairchild, do they have all weather services?

9       A.     Yes, they do, your Honor.

10      Q.     The equipment -- excuse me.   The automatic  
11 warning devices at Fairchild/CSX crossing are they  
12 more than ten years old since the latest upgrade to  
13 your knowledge?   If not, that's fine.

14      A.     I don't have knowledge of that, your Honor.

15      Q.     I think I asked you to clarify that the  
16 railroad right-of-way on which this crossing is  
17 located that is in an incorporated area, correct?

18      A.     Correct.

19      Q.     And are you aware of the traffic count at  
20 that crossing or the vicinity of that crossing?

21      A.     Yes, your Honor.   The average daily traffic  
22 count is approximately 62010.

1 Q. Okay. And who did that traffic count?

2 A. The City of Davenport.

3 Q. Okay. In what year?

4 A. In 2010.

5 Q. That was done consistent with the  
6 methods and procedures of the Illinois Department of  
7 Transportation?

8 A. Yes, your Honor.

9 Q. And of this 62010 average daily traffic  
10 count at that crossing, do you have a basis or  
11 belief as to whether that is -- how much of that is  
12 through traffic as opposed to local traffic? In  
13 other words, how much is one actually traveling from  
14 Area 3 into Area 1 as opposed to coming from a  
15 greater distance to further distance to CSX?

16 A. Your Honor, we don't have a quantifiable  
17 number because there's really no destination point  
18 between Area 1 and Area 3, and local observations is  
19 that that is cut-through traffic attempting to avoid  
20 congestion on Bowman Avenue and Fairchild.

21 For instance, if there's a rail  
22 crossing on the CSX at Bowman Avenue, many people

1 will head west on upper Fairchild attempting to beat  
2 the train to the tracks to avoid getting stopped on  
3 Bowman Avenue.

4 Q. Do they get stopped on the tracks?

5 A. Yes, they could get stopped at Fairchild,  
6 but if they observe the direction of travel of the  
7 train, they may have time to make it to the  
8 Fairchild crossing before the gates go down.

9 Q. All right. Is there also a traffic light on  
10 Bowman that they might be attempting to avoid?

11 A. Yes, at Fairchild and Bowman they may be  
12 turning right on that light to avoid waiting for  
13 the -- again to travel, head south on Bowman.

14 Q. I didn't understand that. Is there a  
15 traffic light at Bowman and William Streets?

16 A. There is a traffic light at Williams as well  
17 as Bowman and Fairchild.

18 Q. The traffic coming from the west when they  
19 reach their point at the corner of Colette and --

20 A. Williams.

21 Q. -- Williams, they could choose to continue  
22 on to Williams to Bowman and then face a traffic

1 light there, and then they get another crossing at  
2 Fairchild or they could go north on Colette and go  
3 to the Fairchild crossing and avoid any traffic  
4 light; is that correct?

5 A. That is correct.

6 Q. And they also save a tenth-of-a-mile by  
7 taking that route; is that correct?

8 A. That is correct, your Honor.

9 Q. And that's because of Colette Street?

10 A. That is correct.

11 Q. So all these indications support much of  
12 this travel is through traffic as opposed to what  
13 would be going from 3(A) to Area 1 or Area 2(A)?

14 A. Correct.

15 JUDGE DUGGAN: All right. I think -- does  
16 anybody else have any questions on those specific  
17 areas that I just asked?

18 Mr. Flynn?

19 MR. Flynn: I have no questions.

20 JUDGE DUGGAN: Mr. Streicher?

21 MR. STREICHER: No questions, your Honor.

22 JUDGE DUGGAN: Mr. Gower?

1 MR. GOWER: No questions, your Honor.

2 JUDGE DUGGAN: Ms. Kuntz?

3 MS. KUNTZ: No questions.

4 JUDGE DUGGAN: Mr. Toliver?

5 MR. TOLIVER: No questions, your Honor.

6 JUDGE DUGGAN: Okay. Well then, I think, for the

7 reasons we discussed off the record, we haven't

8 finished for today.

9 Let's go off the record.

10 (Off the record.)

11 Pat, we are back on the record.

12 MR. GOWER: I would like to make a request on the

13 record. Given that the transcript won't be

14 available immediately, to the extent that Aaron

15 needs clarification as to what was the testimony

16 concerning adverse travel, would anybody have any

17 objection to Mr. Toliver contacting Mr. Schnelle

18 directly to just verify or clarify what was

19 testified to on the record, subject to check, once

20 we have the transcript?

21 MR. STREICHER: No objection.

22 MR. FLYNN: I have no objection.



1 MS. KUNTZ: No objection.

2 JUDGE DUGGAN: Okay. The further question is

3 whether Aaron can communicate that information to

4 me.

5 Neil?

6 MR. FLYNN: I have no objection.

7 JUDGE DUGGAN: Paul?

8 MR. STREICHER: No objection.

9 JUDGE DUGGAN: Ed.

10 MR. GOWER: No objection.

11 JUDGE DUGGAN: Jenny?

12 MS. KUNTZ: No objection.

13 JUDGE DUGGAN: Aaron?

14 MR. TOLIVER: No objection, your Honor.

15 JUDGE DUGGAN: All right. And, as I said, I

16 would discourage that, except based on the fact

17 because that evidence is on the record, there may be

18 something; however, since we are going to stipulate

19 to other things that you need to get information

20 that you get is just as good or better, we can also

21 stipulate to that, too. Okay. Very good. We are

22 continuing the matter.

1 MR. STREICHER: One thing, Judge, public hearing  
2 on the record.

3 JUDGE DUGGAN: At this point -- yes, thanks,  
4 again.

5 We will note that notice was published,  
6 as required by statute and administrative rule, in a  
7 paper of local circulation in the area of the  
8 Fairchild/CSX crossing noting the proposal and  
9 stating the time and place of hearing to afford  
10 people the opportunity to come and state their  
11 position, that here-to-date in Springfield has been  
12 the attorneys for each party, and Mr. Schnelle, the  
13 city engineer, and other persons who are associated  
14 with each of the parties, and in Chicago,  
15 Mr. Streicher and his associate, Mr. Schmidt, and  
16 the court reporter, and no other persons I believe.  
17 And so there were no members of the general public  
18 that appeared today to state any position.

19 Does anybody have any clarification or  
20 confirmation of that?

21 Is that your understanding,  
22 Mr. Flynn?

1 MR. FLYNN: Yes, it is, your Honor.

2 JUDGE DUGGAN: Is that your understanding,

3 Mr. Streicher?

4 MR. STREICHER: It is, your Honor.

5 JUDGE DUGGAN: Is that your understanding,

6 Mr. Gower?

7 MR. GOWER: Yes, it is, your Honor.

8 JUDGE DUGGAN: Ms. Kuntz?

9 MS. KUNTZ: Yes.

10 JUDGE DUGGAN: Mr. Toliver?

11 MR. TOLIVER: Yes, your Honor.

12 JUDGE DUGGAN: Then let's go ahead and identify

13 the three people who otherwise are in this room.

14 MR. MANKO: John Manko.

15 JUDGE DUGGAN: Can you spell your last name for

16 the court reporter and state your position.

17 MR. MANKO: John Manko, M-a-n-k-o, civil engineer

18 for the City of Danville.

19 JUDGE DUGGAN: Okay. And you are here in your

20 capacity as city engineer for the City of Danville

21 at the request of Mr. Gower?

22 MR. GOWER: He's here as the civil engineer for

1 the City of Danville at my request.

2 JUDGE DUGGAN: You are not here to state a  
3 position on behalf of the general public?

4 MR. MANKO: No.

5 JUDGE DUGGAN: Next person.

6 MR. SPEICHER: David Speicher, the local roads  
7 engineer for District 5, Illinois Department of  
8 Transportation, S-p-e-i-c-h-e-r.

9 JUDGE DUGGAN: Okay. And you are here in your  
10 professional capacity, correct?

11 MR. SPEICHER: Correct.

12 JUDGE DUGGAN: Okay. You are not here as a  
13 member of the general public to state a position?

14 MR. SPENCER: No, your Honor.

15 JUDGE DUGGAN: Okay.

16 MS. LATHAM: Darla Latham, L-a-t-h-a-m, general  
17 coordinator, District 5, local roads.

18 JUDGE DUGGAN: You are here in your official  
19 position here today?

20 MS. LATHAM: Yes, I am, your Honor.

21 JUDGE DUGGAN: All right. You are not here as a  
22 member of the general public to state a position on

1   behalf of the general public?

2       MS. LATHAM:   No, I'm not.

3       JUDGE DUGGAN:   All right.   Thank you.

4                   Anybody have anything to add, clarify,  
5 or correct?

6                                   (No response.)

7                   Hearing nothing, then that concludes  
8 the hearing for today.   Thank you very much, Pat.

9                   We are off the record.

10                                   (Whereupon, the above  
11 matter was adjourned  
12 sine die.)

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